

Meeting Minutes  
September 26, 2017 Planning Board Meeting  
7:00 P.M. | City Council Chamber, Woburn City Hall

Chair Carolyn Turner called the meeting to order at 7:00 p.m. and asked City Planner/Grant Writer Dan Orr to call the roll.

**ROLL CALL OF MEMBERS**

Mr. Kevin Donovan, Mr. Bob Doherty, Ms. Claudia Bolgen, Mr. Jim Callahan, Mr. Michael Ventresca, Mr. Dave Edmonds and Chair Carolyn Turner were present. Also present were Planning Director Tina Cassidy and City Planner/Grant Writer Dan Orr.

Chair Carolyn Turner asked Director Cassidy if there were any ANR applications before the Board this evening. Planning Director Cassidy responded that there is one.

**26 CENTRAL STREET ANR PLAN (FJT BUILDERS LLC)**

Director Cassidy provided an overview of the ANR application. The existing parcel of land would be divided into two parcels. One (Lot 1) would have 120' of frontage on Central Street and contain the existing two-family dwelling now under construction; the second lot (Parcel A) would contain 8,793 sq. ft. of land but have no frontage so it is labeled "not to be considered a buildable lot". She recommended the Board endorse the plan as one not requiring approval under the Subdivision Control Law.

Motion to endorse the ANR plan at 26 Central Street, as submitted, made by Ms. Claudia Bolgen;  
Seconded by Mr. Bob Doherty;  
Motion carried, 6-0-1, with Chair Carolyn Turner abstaining.

**PUBLIC HEARING: 24 FLAGG STREET DEFINITIVE SUBDIVISION (MR. GEORGE W. GATELY, JR)**

Chair Carolyn Turner stated that at the last meeting three nearby neighbors expressed concern that they did not receive notification of the public hearing on this matter. She asked Planning Director Cassidy to clarify the public notification process that is undertaken for definitive subdivision applications in Woburn.

Director Cassidy addressed the audience as to the notification process that is required for definitive subdivisions. She projected a graphic that showed State law requires, for subdivision plans, that the City notify direct abutters and those owning land directly across a way. The Woburn Assessors office actually goes beyond what is required by State law for definitive subdivision notifications and instead notifies those considered to be "parties in interest", which includes not only direct abutters and those directly across the street, but also abutters to abutters within 300' of the parcel proposed for development. By using the broader definition of "parties in interest", the Assessors are ensuring the City notifies more residents than the law technically requires.

Planning Director Cassidy further stated that the individuals who expressed concern that they fell inside of the notification range in fact did not fall within the boundary of required notification.

Attorney Joseph Tarby of Murtha Cullina, 600 Unicorn Park Drive, approached the Board on behalf of the Petitioner to provide an overview of the application and the progress on the subdivision application review thus far. This is a two-lot proposed subdivision complying with all zoning requirements and reflects the Downs Court layout.

Attorney Tarby stated that, in follow up to the Board's requests at the previous meeting, the Petitioner thus far has met with the abutting neighbors on two occasions and conducted research to answer the Boards initial questions as to the how current definitive subdivision proposal compares with the 1999 and 1987 versions.

Mr. Dave Romero, Commonwealth Engineering, 27 Cambridge Street, #106, Burlington, MA, representing the Petitioner as the project engineer, approached the Board. He reviewed a comparison sheet that identifies how the current application differs from the previous subdivision application in 1999 relative to the roadway layout, drainage system, curbing, rights-of-way, and presence of sidewalks. Overall, he believes the previous plan represents a "marked difference" from what is proposed now.

Attorney Tarby asked Planning staff if there was any further departmental correspondence. Director Cassidy stated that she sent a communication to Building Commissioner Tom Quinn and City Solicitor Ellen Callahan Doucette on the question as to whether a new single-family house constructed in this subdivision could be converted to a duplex after initial construction, as well as questions relative to the Board's authority to accept or impose limitations preventing future conversion.

Director Cassidy further stated that the Building Commissioner has confirmed that a conversion to a duplex is theoretically permitted on these properties. In addition, per the Solicitor, the developer could agree to a deed-restriction clause, or the Board could opt to restrict future conversion without additional Board review. Should the Board decide to limit future conversion, the limitation/deed language must be accompanied by clear authority allowing the Board to enforce a deed restriction.

Mr. Gately stated that he does not oppose signing a deed restriction with the intention of limiting the properties to single-family homes. It was never his intent, he said, to build duplexes.

Attorney Tarby stated that he has worked with the City Solicitor Callahan Doucette in the past on Declarations of Restrictive Covenants, which would be appropriate for this scenario.

Mr. Jim Callahan asked the developer about working with the neighbors regarding the driveway construction. He is most concerned with the approach to the first driveway due to the current existing obstructions (utility pole on the left side, and retaining wall for a carport on the right) that are both within the right-of-way. He would ask the developer to mitigate that issue to the extent possible.

Director Cassidy inquired about any waivers as to underground electrical service. They are not asking for a waiver so the electrical service will be underground. Cassidy asked if the existing utility pole could be eliminated along with the intended underground utility work; that would free up the right-of-way to an extent. Mr. George Gately responded that no waiver is being sought for underground electrical service.

Mr. George Gately stated that he is not sure how to contend with the existing carport which is privately owned and within the City's right-of-way. Mr. Jim Callahan responded that he understands that it is not necessarily the developer's responsibility to ensure that private property is removed



from the right of way, but it would be advisable to come to a resolution with the affected property owner.

Mr. Michael Ventresca inquired relative to the possibility of the City Council needing to hear this matter. Director Cassidy stated that she is unaware of any need to file for a Special Permit for this project.

Mr. Michael Ventresca asked Mr. Romero about the drainage system that is proposed for the site. Mr. Romero stated that onsite runoff, as well as adjacent roadway runoff, will be reduced because it will all be placed in an underground detention system onsite via two newly-installed catch basins.

Mr. Michael Ventresca asked about maintenance of the emergency turnaround easement in terms of ownership. Mr. Romero responded that maintenance will be done by a Homeowners Association (HOA) agreement and will cover issues like keeping the property clear of debris or high grass.

Chair Carolyn Turner opened this matter for a public hearing and asked any members of the audience who wanted to address the Board to please do so.

### **PUBLIC HEARING**

Mr. Wayne Maginnis, 42A Chestnut Street, stated he has surveyed the neighborhood to gauge the opinion of the neighborhood and found that the vast majority of abutters who were home of the time of his visit are against this project and signed his Petition accordingly. He believes there are also more individuals against this project that he was unable to reach. He further stated that he does not believe neighbors understand what is actually proposed to be built; they must visualize the size of the new homes.

Mr. Maginnis further stated that he is concerned with the lack of access for emergency vehicles to the property other than utilizing Flagg Street only. He has worked with a friend to develop a simulation of potential outcomes of standard-sized fire trucks and discovered some scenarios of vehicles going beyond the curbing. He would like to present hard-copies of simulations to the Board for their consideration. Overall, he believes the proposed design does not comply with fire safety standards of the National Fire Protection Agency. He further stated that he does not understand why this project is being compared to the Downs Court subdivision. He believes there have a number of differences between the two projects, particularly in terms of topography and roadway layout.

Mr. Maginnis asked how the Board would like to handle the drawings and Petition that he compiled for their consideration. Director Cassidy stated that she would accept the paperwork on behalf the Planning Office.

Attorney Tarby stated that he would like to request that the Board take into consideration who has drafted these documents and whether they have professional expertise. In addition, he reiterated that the Fire Department has opined that the definitive subdivision is sufficient for fire apparatus access. Chair Turner clarified that the name and credentials of the individual who prepared the drawings will need to be submitted and evaluated, before the documents become part of the official record and part of the record the Board considers when making its decision.

Chair Carolyn Tuner inquired of the Planning Director as to whether there were any further comments from the Fire Department on this matter. Director Cassidy responded that she has spoken

with Chief Adgate again, and based on additional research as a "double check", his Department has still has not found any issues to report relative to fire response access. They have no issues.

Ms. Betty Ann Maginnis, 42A Chestnut Street, approached the Board to review the differences that she has found relative to Downs Court. She believes that there are a number of substantial differences related to lot size in particular. She further stated that, based on her research of deed history of the property and it remaining as one parcel, she believes there is a reason why the land has not been developed.

Ms. Maginnis further stated that she believes there are still concerns for emergency fire access, the ability of vehicles to safely circulate the street and snow storage, particularly due to the potential size of the new homes and the number of potential new resident cars on the street. She stated that she has heard about emergency access easements from other towns fire officials that they are not always kept up and remain safe.

Ms. Maginnis further stated that she believes that there may have been an error in surveying the surrounding lots based on inconsistent deeds and would like an independent surveyor to re-examine the area. She further stated that she is concerned that the Board will be opening up a "can of worms" in approving waivers of the Subdivision Rules & Regulations. It means that the developer does not want to follow the rules.

Ms. Maginnis also stated she is concerned generally about the effect of construction on the quality of life in the neighborhood. The developer stands to gain from this development, but the neighborhood has to deal with the aftermath.

Ms. Mary Brogan-Chase, 15 Middlesex Street, stated that she is concerned with what is being proposed because of how this will change the character of the neighborhood and what neighbors will have to endure. She further stated that she has personally been misguided before by a developer and experiences other impacts from nearby development and does not want to see it happen elsewhere in the neighborhood.

Ms. Linda Blackwell, 34 Scott Street, stated that she is concerned with the process of blasting, particularly because she has an older home with a field stone foundation. She would like to better understand where is the responsibility going to lie in terms accountability for any damages as a result of blasting and how repairs would take place.

Ms. Sue Maginnis, 42A Chestnut Street, stated that she would like the Board to consider the impact that this proposed development will have on the neighbors, particularly life-long and elderly residents.

Mr. Phil Donahoe, 23 Flagg Street, stated that he describes himself as "undecided" on the development. Fundamentally, he is concerned about the effect that blasting/general removal of ledge will have on surrounding properties and potential legal expenses that abutters may have to incur. Further, he is concerned about the maintenance of the emergency turnaround and cul-de-sac and who will be responsible. Director Cassidy responded that her understanding is that the property will be maintained as a public way and that emergency access easement maintenance is codified in an agreement and becomes the responsibility of the homeowners with Planning Board enforcement.

Mr. Donahoe further stated that he concerned with the effect of debris and snow on the drainage system and lack of proactive clearing. In addition, he does not believe it is feasible to move the utility



pole from where it sits in the right-of-way. Lastly, he inquired about the presence of onsite test pits to ascertain drainage conditions and whether they have been placed where the most intense development would occur. Mr. Romero responded that test pits have been installed, although not where house foundations are proposed.

Mr. Wayne Maginnis stated he is concerned with the idea that the cul-de-sac would be able to accommodate an emergency vehicle of any size based on the methodology used by the project engineer. He personally does find that the current cul-de-sac proposal is sufficient for the presence of multiple emergency vehicles. Further, he does not believe Flagg Street is able to accommodate the types of vehicles that would be necessary to conduct site preparation work. He further stated that he is concerned with the drainage onsite and that it will fall to other adjacent parcels, particularly with clear-cutting the property. Additionally, he does not have confidence that the developer would be able to efficiently complete tasks such as utility work given delays experienced at other projects.

Attorney Tarby stated that reports from the Departments of Engineering, Public Works, Police and Fire that do not identify any emergency access or onsite drainage issues.

Attorney Tarby stated to reiterate that the proposed roadway plan will constitute a major improvement in terms of access and safety that will be publicly accessible and contain a new fire hydrant.

Attorney Tarby stated that in terms of blasting activity, it is under the jurisdiction of the Fire Department which administers State regulations and requires liability coverage. Pre-blasting surveys are conducted.

Mr. Gately stated that he has spoken to several residents and has found support for his project due to the roadway improvements that are proposed. The current conditions do not create a safe environment for emergency response vehicles.

Mr. Bob Doherty stated that he is conflicted by this project. He looks at the land and although understands how it could be seen as an improvement does not understand why it should be developed. Further, he does not necessarily believe it is the Planning Board's discretion as to whether a project constitutes an "improvement" for a neighborhood. He is concerned for the construction impacts in a dense neighborhood, the timeline of construction and questions what is "enough" for the City in terms of development on every potential parcel.

Mr. Dave Edmonds inquired as to what could be constructed by-right on this property; his understanding is that even if the application were denied, a two-family home of any size (in compliance with setback requirements) could be constructed with only a building permit application, which would be done without any roadway improvements. He believes it is important for the Board to consider the fact that change is inevitable and at the way that business is conducted in the City is that we allow property owners to develop their land as they desire so long as it is in compliance with zoning.

Planning Director Cassidy stated that relative to what would be permitted the 24 Flagg Street by-right, the question of adequate frontage for a new two-family home seems to be unanswered.

Mr. Michael Ventresca stated that he believes the current road presents dangerous conditions and he would like to err on the side of caution by realizing the opportunity to improve it. Further, it is

important to recognize the City's department comments verifying the safety of the new roadway design.

Mr. Michael Ventresca inquired to Mr. Gately whether anything could be done about the utility pole prior to commencing construction work.

Mr. George Gately stated that he is willing to attempt to move the utility pole from the roadway portion of the right-of-way. Mr. Jim Callahan stated that both utility pole and retaining wall placement need to be considered and would like Mr. Gately to speak to the property owner in question to try to come to a resolution to remove any obstacles in the right-of-way. Mr. Gately responded that he would attempt to do so but is unsure about how to convince the neighboring property owner to move his carport.

Ms. Sue Maginnis, 42A Chestnut Street, stated that she is concerned that there is no consideration for abutters on other streets, such as on Chestnut Street, particularly in terms of drainage issues or potential financial burdens. She added that she does not understand the conversation relative to "improvement;" she believes most neighbors would rather the parcel remain as is.

Mr. Romero reiterated that the drainage system is designed to accommodate all onsite runoff, including what would drain onto abutting properties.

Ms. Betty Ann Maginnis, 42A Chestnut Street, stated that she thinks the Board should take into consideration that the Master Plan of the City to promote affordable housing and developing smaller homes. Further, she does not believe that a change to the property should be made at the expense of abutting long-time property owners in the area and that the Planning Board should take the construction impacts into consideration.

Mr. Wayne Maginnis stated that he is concerned about the prospect of the developer obtaining a variance if he experiences a hardship during the construction phase. In addition, he is concerned with the fact that the developer has not presented building designs.

Attorney Tarby stated that under Subdivision Control Law, applicants are not required to submit housing construction plans. In addition, it is very difficult to obtain a variance in Woburn from the Board of Appeals.

Attorney Tarby further stated that the concerns relative to snow storage should be addressed by the fact that the proposed cul-de-sac would provide more effective conditions for plowing than the current "dead end." Lastly, it should be taken into consideration that all of the departments have expressed that they take no issue with the proposed plan.

Chair Turner asked if there were any other public comment. There was none.

Motion to close the public hearing made by Ms. Claudia Bolgen;  
Seconded by Mr. Bob Doherty;  
Motion carried, 6-0-1, with Mr. Dave Edmonds abstaining.

Chair Carolyn Turner asked Director Cassidy for her recommendation who stated that she does not have a formal recommendation at this point but that it would be helpful if the Board would first review the waivers requested by the applicant, the recommendations of the various City departments (i.e., requesting incorporation of plan elements such as shade trees, location of a street light at the



end of the cul-de-sac, water service detail and hydrant detail, as well as potential wording of conditions so that the emergency turnarounds would be properly maintained and unobstructed). Additionally, Board of Health recommended conditions include onsite dust and rodent controls. Finally, the Department of Public Works recommended location and marking of the water main, as well as private/HOA maintenance for the drainage system and emergency turnaround easement.

Mr. Michael Ventresca inquired about street lighting on the property and reiterating the concern that lighting would adversely affect abutting properties. Director Cassidy stated that it is part of the City's subdivision standards to include the location of street lighting on the plan.

Mr. Michael Ventresca inquired about the approach to addressing the retaining wall within the right-of-way. Director Cassidy responded that the Board may want to postpone its decision on this matter until the Board's next meeting as to ascertain an answer from the City Solicitor as to how to address the removal of encroachments on a public way.

Ms. Claudia Bolgen stated that the legal standard for granting waivers, should there not be strict compliance, the onus is on the developer to demonstrate that waiver is within the public interest and that it is consistent with the Subdivision Control Law. She finds that two competing arguments for this particular project, in that public interest may be defined as improvement to the current roadway in the interest of safety/access, or several neighbors expressing that they would like to see the parcel remain as is due to deep concerns with construction impacts.

Mr. Michael Ventresca stated that he believes that this subdivision plan should principally be viewed from a safety improvement perspective, although he remains conflicted about the right-of-way issue.

Mr. Dave Edmonds inquired about the public right-of-way and whether it could be applied to all of Flagg Street, or conversely, be relinquished. Director Cassidy stated that she is not necessarily qualified in that area of the law, but her inclination is to say that the City would not relinquish its ownership of the right of way in cases of private encroachment.

Mr. Michael Ventresca asked the Board members as to whether an updated plan would help to sway the decision of the Board.

Mr. Michael Ventresca further stated that he noted there were a number of mature trees on the site that, if they could be saved, that would be preferable.

Director Cassidy stated that she would recommend continuance of discussion of this matter until the Board's next meeting on October 10<sup>th</sup> in order to provide time to revise the plans as recommended by the Engineering Department, in addition to identifying on the plan all mature trees that the developer believes can be reasonably preserved, as well as addressing the issue of right-of-way encroachments.

Motion to accept the Director's recommendation to table discussion and a decision on this matter until the Board's next meeting on October 10, 2017, made by Mr. Michael Ventresca;

Seconded by Mr. Jim Callahan;

Motion carried, 6-0-1, with Mr. Dave Edmonds abstaining due to prior meeting absence.

Planning Director Cassidy stated to the audience that at the next meeting on October 10<sup>th</sup> there will not be a public hearing on this matter, but that the public is welcome to attend the meeting to hear deliberations.

Motion for a 5 minute recess made by Mr. Dave Edmonds;  
Seconded by Mr. Michael Ventresca;  
Motion carried, 7-0-0.

**PUBLIC HEARING: CROSSMAN ROAD DEFINITIVE SUBDIVISION PROPOSED MODIFICATIONS TO APPROVED DEFINITIVE PLAN (Mr. Stephen Tonks)**

Attorney Mark Salvati, 10 Cedar Street, approached the Board representing the Petitioner. There are three modifications proposed to the approved subdivision, including the replacement of the open detention/infiltration basin with a subsurface chamber system, construction of a concrete retaining wall, and the use of High Density Polyethylene (HDPE) pipe rather than reinforced concrete.

Attorney Salvati further stated that the Department of Engineering takes no issues with the requested modifications, and DPW recommends that all components of the drainage system be maintained by a Homeowner's Association (HOA).

Mr. Mark Sleger, Alan Engineer, 288 Littleton Road, Suite 31, Westford, MA, approached the Board on behalf of the Petitioner to provide an overview of the proposed modifications. He believes the most significant change of the three modifications is the replacement of the open detention system with an underground system.

Mr. Sleger continued by reviewing the placement of the retaining wall and stated that no further changes are proposed to the roadway layout.

Mr. Jim Callahan asked how the modifications will be engineered in terms of materials. Mr. Sleger reviewed the various options for the retaining wall material and how the material will be applied.

Mr. Michael Ventresca inquired about the concrete material being used on the retaining wall and how it will hold up to moisture. Mr. Mark Sleger stated that, in addition to crushed stone placed behind the wall, the porous nature of the material will allow to relieve moisture. In addition, there will be no sight lines from the roadway relative to the retaining wall.

Mr. Michael Ventresca inquired about the switch to the HDPE material and how this comports with the concerns of the DPW Superintendent. Mr. Mark Salvati stated that there was a concern primarily about the ownership/maintenance of the drainage and that has been covered by the HOA. Director Cassidy added that the depth of the piping was raised as a concern but it would not be a concern for DPW with responsibility falling to the HOA.

Chair Carolyn Turner opened this matter for a public hearing and asked any members of the audience who would like to step forward to address the Board to please do so.

**PUBLIC HEARING**

Mr. Henry Riter, 15 Crossman Road, stated that he is in favor of the current plan but that he would like to be reassured that disruptions would be as minimal as possible and that neighbors would receive notice for service outages.



Mr. Riter further stated that he is curious about the configuration of the roadway where it will meet the existing, narrower pavement. Mr. Mark Sleger stated he was limited by the right-of-way and worked to align the driveways with the roadway as much as possible.

Mr. Riter further stated that he is concerned with deliveries to the area and would not like the developer's other property at the top of the street to become a staging area for construction materials.

Motion to close the public hearing made by Mr. Dave Edmonds;  
Seconded by Mr. Bob Doherty;  
Motion carried, 7-0-0.

Mr. Michael Ventresca inquired about the notification process for service disruptions relative to utility work during construction as well as the intent in terms of construction material delivery and storage. Attorney Salvati responded that 24-hour notice is required with respect to interruptions of utility services and it is possible for the Board to implement a condition to the effect that construction deliveries and material storage would be made under specific parameters. Director Cassidy added that the City has an ordinance that dictates the permitted hours of construction activity.

Chair Turner asked Director Cassidy for her recommendation. She stated she recommends approval of the proposed modifications to the Crossman Road subdivision, subject to the following two conditions:

- That hours of construction activity shall be limited to 7:00 a.m. - 8:00 p.m. Monday through Friday; 8:00 a.m. to 3:00 p.m. on Saturdays; and at no time on Sundays and holidays; and
- All materials associated with construction of the improvements shown on the subdivision plan and the houses shall be delivered directly to the construction site and shall not be staged or stockpiled on any property other than the development site.

Motion to accept the Planning Director's recommendation made by Mr. Dave Edmonds;  
Seconded by Mr. Michael Ventresca;  
Motion carried, 7-0-0.

**PROPOSED ZONING AND MAP AMENDMENTS PUBLIC HEARING: PETITION TO AMEND THE 1989 WOBURN ZONING ORDINANCES BY ADDING A NEW SECTION 31 (FEDERAL STREET SMART GROWTH OVERLAY DISTRICT [FS/SGOD]) AND OVERLAYING THE FS/SGOD DISTRICT ON 14 AND 14R FEDERAL STREET / Jamieson Properties**

Attorney Tarby provided an overview of the application to the Board. The Petitioner has discussed his proposed redevelopment with the Mayor's Office during the past several months and subsequently moved to file the current application after receiving preliminary feedback.

Attorney Tarby stated that the property currently contains 15 apartment units which would be replaced with a structure containing 48 apartment units, 17 of which will be studio and 31 will be one-bedroom. There would be a total of 28 parking spaces. The developer maintains that parking demand will remain limited due to the proximity of the site to public transit service, although a municipal lot is also nearby for residents' use.

Mr. Glenn Morris, architect with Morris Architects, 33 Murray Road, Newton, MA, approached the Board representing the Petitioner to review the content of the application in terms of the rezoning location in context with broader zoning, utilities and transportation lines. He provided a PowerPoint presentation for the Board's information.

Mr. Morris stated that the Commonwealth has made a commitment to smart growth and transit-oriented districts, which has influenced and shaped the proposed zoning change.

Mr. Morris further stated that it is ideal to tie the number of parking spaces to "bedroom mix," as opposed to the number of dwelling units. The experience of the developer in this case is that their tenants are using fewer than one space per unit, and because of that they are proposing to provide 1.25 parking spaces per unit.

Mr. Morris further stated that there are a number of arguments for increasing density in core areas, such as being able to walk to stores, employment and other amenities. In addition, there is a need for a greater housing variety in Massachusetts generally, such as smaller and more economical units. Further, areas with more intense development is an appropriate place for housing options for young skilled workforce talent for local businesses.

Mr. Morris further stated this Smart Growth district proposal includes not only a new section of the zoning ordinance but also a re-zoning map and guidelines for design standards for use by the Special Permit Granting Authority.

Mr. Morris provided an overview of the zoning similarities between Woburn's Business District (B-D) and the proposed Smart Growth district. Overall, the Smart Growth district allows for much greater intensity than would currently be allowed or expected under the current zoning.

Mr. Edmonds inquired as to the differences in building heights limits between the zoning classifications. Mr. Morris responded that the Smart Growth district would increase height allowances, but in a downtown setting the differences between, for example, two and four stories, would not appear dramatically different.

Mr. Morris reviewed the parking calculations that underlay what is proposed in terms of total parking for the apartment building, including onsite spaces provided and adjacent municipal spaces that may be counted toward the parking requirement outlined in the Zoning Ordinance.

Mr. Morris provided an overview of other local projects that serve as templates for Smart Growth development. He also reviewed the State's payment structure to Cities/Towns relative to a zoning incentive and density bonus, as well as payment by the developer into the City's Parking Fund.

Mr. Morris reviewed the preliminary design scheme and elevation drawings for the proposed apartment building. The building has been designed to complement downtown Woburn in terms of materials and architectural elements. He additionally reviewed the floor layout plans of the apartment building structure.

Mr. Edmonds asked about the impact of the project on the existing tenants of 14 and 14R Federal Street. Mr. David Jamison, Jamieson Properties, 627 Main St., responded that he is confident he will be able to relocate all of their current tenants there to other properties/units they manage in the downtown. He further stated that the project is envisioned to service individuals who stay on extended business for several months at a time, as opposed to extended stay hotel properties where occupants tend to stay for a few weeks.



Mr. Edmonds stated that he is concerned about the sizing of a unit that is only 350 sq. ft. in floor area. Mr. Jamieson stated that this model has been used at their 44 Montvale property for 20 years successfully.

Mr. Michael Ventresca inquired about the mixed-use component of the space. Mr. Morris stated that the zoning proposal calls for a maximum of 20% of space dedicated to retail, although their proposed ordinance would not require ground floor retail and the proposed building would not have any. Generally, developers have shied away from first-floor retail in locations like this due to the lack of an appropriate critical mass and the locations of the projects.

Mr. Edmonds asked whether the current tenants of the Jamieson's facilities are elderly. Mr. Jamieson responded that they will sometimes have retired individuals staying during the summer months to visit family locally. If relocated, they would be to facilities of similar rent and size.

Director Cassidy asked when this rezoning matter will be before the Council again for consideration. Attorney Tarby responded October 17<sup>th</sup>. Director Cassidy stated that Planning Board discussion of this matter, should it be continued, would be slated for the Board's October 10<sup>th</sup> meeting.

Mr. Michael Ventresca said he thinks this project makes sense at the proposed location given the proximity to public transit and Woburn Center.

Mr. Jim Callahan stated that he would like to see more material relative to building materials and a site plan demonstrating proximity (within 500 ft.) of an adjacent municipal parking lot prior to voting on this proposal. Attorney Tarby responded that they could do so and also reiterated that the Petitioner's parking requirement, under the Smart Growth Overlay District, would be less than what is required under the current zoning.

Mr. Michael Ventresca asked about the downtown parking fund in terms how its dedicated funding is directed. Director Cassidy clarified that those funds are specifically dedicated to downtown parking improvements per provisions of the ordinance.

## **PUBLIC HEARING**

Chair Carolyn Turner opened this matter for a public hearing and asked any members of the audience who would like to step forward to address the Board to please do so. There were none.

Motion to close the public hearing made by Mr. Dave Edmonds;  
Seconded by Mr. Bob Doherty for discussion;

Ms. Claudia Bolgen stated, for discussion, that the Board should consider holding off on closing the public hearing if it intends to consider further information. There are still a number of questions with which the Planning Board must grapple relative to what is appropriate for Woburn's downtown and access to transportation, particularly because this is a very different type of development than the City is typically accustomed to.

Mr. Edmonds inquired about the timing of the Planning Board's recommendation and when a recommendation must be provided to the Council. Director Cassidy explained that the Planning Board does not have a formal deadline for a recommendation to the Council so long as the public hearing remains open. Once it is closed the Board has 21 days to file its recommendation.

Mr. Edmonds stated that his experience is that a motion "on the table" must be voted upon, as opposed to withdrawn.

Chair Turner called the motion and the vote was 0-7-0 (motion to close the hearing failed).

Motion to continue the public hearing until the next meeting, October 10<sup>th</sup>, at 7:00 pm, made by Ms. Claudia Bolgen;  
Seconded by Mr. Jim Callahan;  
Motion carried, 7-0-0.

**DRAGON COURT SUBDIVISION (GARVEY ROAD): Update on construction progress and conformance with conditions of subdivision approval / Murray Hills**

Chair Turner recused herself from this matter and Mr. Ventresca assumed the role of Chair pro tem.

Director Cassidy provided an overview of correspondence from an abutting property owner relative to concerns on two different Planning Board conditions of approval involving the hours of construction activity on site and the preservation of certain mature trees.

Director Cassidy further stated that, specifically, one of the complaints alleged that construction activity occurred past the 7:00 p.m. time constraint specified for weekday work. In response, she met with the developer's representative to ensure that the developer clearly communicated the condition to all contractors. She stated that Building Commissioner Tom Quinn initially responded to this matter since he was included in the email "chain". He contacted and discussed the condition directly with representatives of Murray Hills. In addition, she met with representatives of the developer of this project, Murray Hills, to discuss the condition. Murray Hills subsequently submitted an email (provided to Board members) which expresses assurances that the contractors would be sure to follow the restricted hours of construction activity as required. She added that she has not heard of any further problems with work hours since then so believes the matter is resolved, at least at this juncture.

Mr. Ventresca asked Director Cassidy if she believes the email correspondence, including the action taken by the Building Commissioner and discussions with the developer sufficiently document the Planning Board has taken action on this allegation. Director Cassidy stated that she is confident that the Board has done its due diligence in this respect.

Director Cassidy then noted the second potential violation referenced by the abutter, relating to possible violation of the Board's condition that *"All mature trees in good health that are not part of the development areas shall be preserved"*. She addressed this point in her meeting with the developer who provided its response in the same email referenced above.

Director Cassidy stated that the condition does not specifically identify which trees the Board had in mind when it conditioned approval on their presentation. She referenced the fact that Sheet G-1 of the approved Dragon Court plan set shows both the (a) location and measurements (caliper) of some specific trees on site onsite as well as two general areas of trees depicted and labeled with "tree line" on that sheet.

Director Cassidy further stated that her intent is that the Board will be able to determine whether, in its opinion, there were in fact trees outside of "development areas" that could have been preserved.



If there are, it would answer the question as to whether the developer had violated the condition. The developer maintains that once accounting for construction of the road, houses, utilities and grading, no mature trees were in fact able to be preserved.

Mr. Ventresca asked for clarification as to what is it really that the Planning Board must answer or determine. Director Cassidy stated that the threshold question is: Based on all of the information available and the Board's understanding of its original intent in imposing a condition relative to mature tree preservation, is the developer in violation of the condition?

Mr. Ventresca stated that it is difficult to determine what would have been considered a mature tree, unless specifically labeled on the Plan of Record. Director Cassidy stated that some of the trees shown on Sheet G-1 include notations of caliper. If those are in fact the "mature trees" the Board had in mind at the time of subdivision approval, then in concert with a review of the house footprints, lot grading and roadway construction, members may be able to determine what would have been a "savable" "mature" tree at the time of approval.

Mr. Callahan inquired about the role of the swale/drainage easement in this matter. First, Director Cassidy stated that the abutter has expressed general concern with the removal of trees in the area immediately near his house. The developer has responded that tree removal was necessary either for construction of the houses, the drainage swale or lot grading. There is a drainage easement adjacent to the common property line and a swale proposed for the middle of it.

Ms. Claudia Bolgen stated that it would be most helpful and accurate to be able to examine the minutes, or perhaps recordings, from the meetings at which this subdivision was discussed at the definitive plan stage to aid the Board's recollection. In addition, it would be helpful to identify who the missing Board member was at the time of subdivision approval (the recorded vote was 6-0-0). Director Cassidy agreed to provide the Board with more information from past meetings on this matter including prior meeting minutes and any existing video feed.

Director Cassidy stated that remaining allegations from the abutter related to concerns about dust and noise generation. The issue of dust control was addressed immediately by the Building Commissioner at the same time he addressed the hours of operation. She has heard of no further issues relative to dust generation since the initial emails so assumes it has likewise been addressed at least for the moment. With respect to excessive noise, any concerns relative to noise must be addressed to Board of Health; City ordinances charge the Board of Health with oversight of the noise ordinance.

Director Cassidy further stated that the abutter has also questioned whether the drainage easement needed to be located adjacent to his property line and whether the swale needed to be placed directly in the middle of the easement. The time to have raised these particular concerns would have been during the public hearing process, while the design of the drainage system was under consideration. The easement is shown on the Plan of Record and the developer is required to adhere to it.

Director Cassidy further stated that one final issue raised by the abutter concerns the impact of construction of the swale on the health of trees on his property, particularly with respect to damage to tree roots. In response, Director Cassidy indicated she covered this point in her meeting with a representative of Murray Hill and asked that the developer try, to the extent possible, to mitigate potential negative impacts to the abutters' tree roots to the extent possible.



Mr. Michael Ventresca asked about the recourse that the abutter would have in the event that the abutter's trees are adversely impacted by subdivision construction. Director Cassidy stated in her opinion the property owner might have grounds to sue the developer for monetary damages, so it is perhaps in the developer's best interest to be proactive.

Mr. Doherty asked if the developer is aware the Board would be discussing Garvey Road this evening. Director Cassidy responded that the developer was aware that she would be having this discussion with the Board. She stated that she specifically did not invite the developer to attend this evening believing the Board should first discuss this matter and formulate any potential questions.

Mr. Doherty stated that the condition relative to mature tree preservation itself is ambiguous, but that if you do happen to look at the site as it looks now, it is clear to him that there are at least some trees that could have been preserved. He would like to know what the response would be if the Board overall finds this to be the case. In addition, he would like to know whether the Building Commissioner could have played a proactive role.

Director Cassidy stated that the specifics of the Board's intent in preserving mature trees was not clearly articulated by the condition, which means that the response to this action may be more difficult to decide. Mr. Doherty stated that although the condition is ambiguous, and the Board likely did not have a specific number of trees to preserve in mind, it still should have been "common sense" for the developer.

Director Cassidy reiterated that it is the Board that must determine whether the explanation provided by the developer (as to why no mature trees was left standing) is legitimate in the Board's eyes, and whether trees could have actually been saved, and if the Board subsequently finds some trees were removed in error, it must decide what the appropriate Board action should be.

Mr. Doherty stated his concern is what the City should be doing moving forward to "police" these types of conditions of subdivision approval, and it appears to fall on the Building Commissioner presently. He asked whether there was a staffing issue. Director Cassidy stated that it simply is not a standard practice of the Department of Inspectional Services to be responsible to inspect/monitor this type of issue/condition.

Mr. Callahan stated that in this type of "condition" scenario, it would normally be common for representatives of the Planning Department and Inspectional Services to make a site visit to confirm with the developer which mature trees should be preserved. In addition, he believes that the limited amount of grading and nature of the construction did not warrant the removal of mature trees at the rear of each lot and that the intent of the original condition was clear.

Mr. Ventresca stated that it would be helpful to receive the minutes and any video recordings of the past Board meetings in relation to this matter, and after that point the Board could potentially invite the developer to a meeting for questioning after digesting the material.

Mr. Ventresca asked about the references to a cease and desist order. Director Cassidy responded that with respect to action on the complaint that trees were being removed that should not have been, the abutter sent the emails to Alderman Mercer-Bruen, the building inspector and to others but that she was not made aware of the emailed complaints until about a week after the last trees were removed. With respect to the issue of a cease and desist relative to construction of the swale, she saw no grounds on which to issue a cease and desist to the developer; he is required to construct the swale according to the approved plan.



Ms. Bolgen stated that she does not recall the Board ever being involved in a cease and desist issuance; that would fall only to the Building Commissioner. She believes it make sense to first discern what the Planning Board intended by imposing this condition before advocating any corrective action.

Director Cassidy stated that she would provide further information in that regard in the intervening time between now and the Board's October 10<sup>th</sup> meeting.

Ms. Bolgen stated that relative to the concern for public participation, she wonders whether it would be appropriate for the Planning Board to institute something of that nature akin to the City Council, particularly as there are some matters without public hearing. She does not necessarily have the answer to that question but thinks it would be worth Board discussion at some point.

Mr. Michael Ventresca stated that according to the Attorney General's Office, public participation is at the discretion of the Chair. In this particular case, he believes it would not have been appropriate to institute a public participation component, being that the developer is not present to respond to allegations.

#### **APPROVAL OF MINUTES: September 13, 2017 meeting**

Chair pro tem Michael Ventresca stepped down and Ms. Carolyn Turner resumed the role as Chair. She asked members if there were any changes or corrections needing to be made. There were none.

Motion to approve the draft minutes of the Board's September 13, 2017 meeting as submitted, made by Ms. Claudia Bolgen;

Seconded by Mr. Bob Doherty;

Motion carried, 5-0-2, with Mr. Dave Edmonds and Mr. Bob Doherty abstaining due to absences at that meeting.

#### **PLANNING BOARD DIRECTOR UPDATE**

Planning Director Cassidy stated the City is continuing to try to obtain the remote participation equipment, and because there must be compliance with City policy and law (for the remote Board member and meeting location participants to see one another), the IT Director has placed an order for equipment that complies with that obligation.

City Planner/Grant Writer Orr stated that a demonstration session with Cisco is being scheduled. He anticipates another update within the next several weeks once the equipment arrives and can be tested.

Chair Turner asked if there was any other business for the Board to conduct this evening. There was none.

#### **ADJOURNMENT**

Motion to adjourn at 10:45 p.m., made by Ms. Claudia Bolgen;

Seconded by Mr. Bob Doherty;

Motion carried, 7-0-0.

*Table of Documents Used at Meeting*

Staff Report
ANR Application for 26 Central Street
24 Flagg Street Subdivision: Copy of Planning Director Memorandum to Building Commissioner and City Solicitor; Copy of City Solicitor Response Memorandum; Copy of Subdivision Comparison Chart
Crossman Road Definitive Subdivision (modification) Application
Crossman Road Subdivision: Copy of comment letter from Department of Public Works; Copies of emails between project attorney, DPW Superintendent, and Planning Director
Petition to Amend 1985 Woburn Zoning Ordinances (Federal Street Smart Growth Overlay District)
Federal Street Rezoning Petition: PowerPoint Presentation; Site and Elevation Drawings
Dragon Court Subdivision: Planning Board conditions of approval; Sheet G-1 of the Plan of Record
Remote Participation update: Email correspondence with IT Director; Spec Sheet document

Respectfully submitted,

Dan Orr, City Planner/Grant Writer